

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:12-cr-00030

MARVIN GARRETT,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

On November 1, 2014, the United States Sentencing Guidelines were amended resulting in reductions in the guidelines in Section 2D1.1. The guideline reduction was given retroactive effect. Pursuant to the order entered on January 7, 2016, this case was designated for Standard consideration.

The Court has received the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, plea agreement, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue and finds that the Defendant is a career offender¹, and, therefore is not eligible for a sentence reduction.

Based on the foregoing considerations, the Court finds that the Defendant is ineligible for a sentence reduction based on the 2014 amendments to U.S.S.G. § 2D.1.1.

¹ Although the Defendant is currently ineligible because he is a career offender, the Court notes that the law regarding career offenders is currently the subject of much litigation and could change. Thus, if a determination is ever made that this Defendant is no longer considered a career offender, the Court will entertain a motion by the Defendant to reconsider the ruling in this order.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: January 12, 2017

A handwritten signature in blue ink, appearing to read 'Th. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE